

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF TEXAS
3 MCALLEN DIVISION

4 UNITED STATES OF AMERICA § CASE NO. 7:16-CR-876-9
5 VERSUS § MCALLEN, TEXAS
6 RODRIGO ROMAN § WEDNESDAY,
§ FEBRUARY 8, 2017
§ 10:37 A.M. TO -P.M.

GUILTY PLEA HEARING / REARRAIGNMENT

BEFORE THE HONORABLE RANDY CRANE
UNITED STATES DISTRICT JUDGE

11 || APPEARANCES:

12 FOR THE PARTIES: SEE NEXT PAGE

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1 APPEARANCES:

2
3 FOR THE PLAINTIFF: PATRICIA C. PROFIT, ESQ.
4 AUSA
5 1701 W. BUS. HWY. 83, STE. 600
6 MCALLEN, TX 78501

7 FOR THE DEFENDANT: DAMON M. CHERONIS, ESQ.
8 140 S. DEARBORN ST., STE. 411
9 CHICAGO, IL 60303

1 MCALLEN, TEXAS; WEDNESDAY, FEBRUARY 8, 2017; 10:37 A.M.

2 (Official Interpreter utilized for translation.)

3 THE COURT: Now let me call 16-CR-876-9, USA

4 versus Rodrigo Romano.

5 MS. PROFIT: United States is present and ready,
6 Your Honor.

7 THE COURT: So what count is this going to be to?
8 You said there was only one count against this Defendant?

9 MS. PROFIT: Nine.

10 THE COURT: Nine.

11 MS. PROFIT: No, he's pleading to the Count 1 in
12 the Indictment.

13 THE COURT: Count 1, okay, the conspiracy.

14 So Mr. Roman, I've been told that you're here this
15 morning to plead guilty to one of the charges. Before I
16 begin, I need to have the oath administered to you, so
17 please raise your right hand at this time.

18 (Defendant sworn.)

19 DEFENDANT ROMAN: Yes.

20 THE COURT: All right. And Mr. Roman, I just need
21 to warn you that now that you've been placed under oath,
22 you're required to answer my questions truthfully and if you
23 did not answer all of them truthfully, then you could be
24 later prosecuted for committing perjury or making a false
25 statement.

1 Do you understand this?

2 DEFENDANT ROMAN: Yes.

3 THE COURT: And as I mentioned, I've been told

4 that you intend to plead guilty to one of these charges.

5 Before I can accept your guilty plea, I need to make certain
6 that it's done of your own free will and in accordance with
7 law and that's because when you plead guilty, you do give up
8 some important rights. I'm going to explain many of these
9 rights to you here this morning.

10 If at any point you did not understand something
11 that I ask or say, just let me know and I'll be happy to
12 explain myself to you.

13 We can begin with if you'd state your full name
14 for the Record, please.

15 DEFENDANT ROMAN: Rodrigo Roman.

16 THE COURT: And Mr. Roman, how old are you?

17 DEFENDANT ROMAN: 40.

18 THE COURT: And how far did you go in school?

19 DEFENDANT ROMAN: High school, freshman.

20 THE COURT: Freshman high school, and that's here
21 in the United States?

22 DEFENDANT ROMAN: Yes.

23 THE COURT: I know you speak English and
24 understand English. Can you also read and write some
25 English?

1 DEFENDANT ROMAN: A little bit.

2 THE COURT: Little bit. Generally are you in good
3 health?

4 DEFENDANT ROMAN: Yes.

5 THE COURT: Have you ever been treated for any
6 kind of mental or psychological problems?

7 DEFENDANT ROMAN: No.

8 THE COURT: In the past 24 hours, have you had any
9 medicines, pills or drugs of any kind?

10 DEFENDANT ROMAN: Just like pills for seizures.

11 THE COURT: For seizures, okay, so an anti-seizure
12 pill. Anything else that you've taken in the past 24 hours,
13 or is that it?

14 DEFENDANT ROMAN: No.

15 THE COURT: And does this medicine that you've
16 taken in any way prevent you from understanding my
17 questions?

18 DEFENDANT ROMAN: Huh-uh.

19 THE COURT: I mean, does the medicine make you
20 groggy where you can't understand or are you able to
21 understand everything fine?

22 DEFENDANT ROMAN: Yeah, I understand everything.

23 THE COURT: Okay. Do you feel like you've
24 understood all my questions so far and that you're competent
25 to continue with this hearing?

1 DEFENDANT ROMAN: Yes.

2 THE COURT: All right. Mr. Cheronis, any reason
3 to doubt your client's competence here today?

4 MR. CHERONIS: No, Your Honor.

5 THE COURT: And Mr. Cheronis [sic], have you been
6 shown a copy of the Indictment? That's just the formal
7 charge against you and have you had a chance to discuss
8 these charges with your lawyer?

9 DEFENDANT ROMAN: Yes.

10 MS. PROFIT: Are we missing Probation, Your Honor?

11 FEMALE VOICE: Yes. I'm here.

12 MS. PROFIT: Okay. Thank you.

13 THE COURT: And do you have any questions about
14 the charges that are against you that your lawyer could not
15 answer for you?

16 DEFENDANT ROMAN: No.

17 THE COURT: And are you satisfied with the advice
18 and the representation that your lawyer has given to you in
19 this case?

20 DEFENDANT ROMAN: Yes.

21 THE COURT: All right. I find that you've taken
22 full advantage of your right to the assistance of Counsel.

23 I'm now going to ask the lawyer for the
24 Government, Ms. Profit, to read Count 1 of the charges
25 against you. When she's finished, you're going to be asked

1 whether you plead guilty or not guilty to this charge, so
2 please listen carefully.

3 Ms. Profit?

4 MS. PROFIT: In the United States District Court,
5 Southern District of Texas, McAllen Division, United States
6 of America, Rodrigo Roman, Criminal No. M-16-0876-S2, the
7 Grand Jury charges Count 1: From on or about June 2011 to
8 on or about June 16, 2016 in the Southern District of Texas
9 and within the jurisdiction of the Court, Defendants
10 Edgar H. Luna, also known as "Moon," Ismael Lechuga, also
11 known as "Junior One," also known as "Junior Five," also
12 known as "Junior 100," Hector Moreno, also known as Toquillo
13 (phonetic), also known as "Yeayo" (phonetic), Pablo Rolando
14 Garcia-Silva, also known as "Gaspar" (phonetic), Jesus De La
15 Rosa Garcia, also known as "Chuyito" (phonetic), also known
16 as "Chuyito One," also known as "Chuyito Three," and Elisco
17 Rico-Rodriguez, Marco Benavides-Arteaga, also known as
18 "Marco Benavides-Erliada" (phonetic), also known as
19 "Alejandro Bennett," also known as "Ricardo Vara"
20 (phonetic), Jose Roman, Rodrigo Roman, Moises Ramos, Omar
21 Vazquez-Avendano, also known as "El Toro," Daniel Rivera-
22 Perez, also known as "Tokayo" (phonetic), Luis Barrera-
23 Garza, also known as "Queno Mas" (phonetic), Ramiro Surplus
24 (phonetic) de la Puentas, also known as "El Mira," Erica
25 Patricia Ochoa, Roger Anthony Gonzalez, Manuel Alejandro

1 Alvarado, Edgar Eduardo Mendez-Pena, Jesus Cepeda-Cano, also
2 known as "Spencer" (phonetic), Able Cadena-Martinez, Jose
3 Denardo (phonetic) Lopez, also known as "Al," did knowingly
4 and intentionally conspire and agree together and with
5 persons known and unknown to the Grand Jurors to possess
6 with intent to distribute a controlled substance.

7 The controlled substance involved was 5 kilograms
8 or more of a mixture or substance containing a detectible
9 amount of cocaine, a Schedule II Controlled Substance.

10 In violation of Title 21, United States Code
11 Sections 846, 841(a)(1), and 841(b)(1)(A).

12 How do you plead to Count 1 of the Indictment,
13 Mr. Rodrigo Roman, guilty or not guilty?

14 DEFENDANT ROMAN: Guilty.

15 THE COURT: Mr. Roman, under the Constitution and
16 laws of this country, you do have the right to plead not
17 guilty and if you plead not guilty, then you would have the
18 right to a trial before either a jury or a judge on these
19 charges that are pending against you.

20 Do you understand this?

21 DEFENDANT ROMAN: Yes.

22 THE COURT: At a trial you would be represented by
23 a lawyer at no cost to you if you could not afford one
24 because if you could not afford a lawyer, then one would be
25 appointed to represent you at all stages of these

1 proceedings against you at no cost to you.

2 Do you understand this?

3 DEFENDANT ROMAN: Yes.

4 THE COURT: And if you wanted to plead not guilty,
5 in order to find you guilty, the Government would have to
6 prove at a trial by competent evidence and beyond a
7 reasonable doubt these charges that are pending against you.

8 Do you understand this?

9 DEFENDANT ROMAN: Yes.

10 THE COURT: And at a trial, you would be presumed
11 to be innocent and it would not be your burden to have to
12 prove that you are innocent.

13 Do you understand this?

14 DEFENDANT ROMAN: Yes.

15 THE COURT: In the course of a trial, the
16 witnesses for the Government would have to come into the
17 courtroom and testify in front of you and your lawyer. Your
18 lawyer could question any of the Government's witnesses,
19 object to any of their evidence, and then you would have the
20 right to present any evidence in defense of these charges
21 that you might want to present.

22 Do you understand this?

23 DEFENDANT ROMAN: Yes.

24 THE COURT: And you would also have the right to
25 take the witness stand and testify in your own defense if

1 you desired; however, you cannot be forced to testify or to
2 incriminate yourself and nobody could hold it against you if
3 you choose not to testify at a trial.

4 Do you understand this?

5 DEFENDANT ROMAN: Yes.

6 THE COURT: When you plead guilty, though, you
7 give up this right against testifying or against
8 incriminating yourself because in order for me to be
9 satisfied that you are actually guilty of this crime, I need
10 to ask you some questions about these events and you cannot
11 refuse to answer them.

12 Do you understand this?

13 DEFENDANT ROMAN: Yes.

14 THE COURT: Also, if I accept your guilty plea,
15 then you'll be giving up these rights that I just discussed
16 with you because there would be no trial in your case. I
17 will simply enter a judgment of guilty and sentence you on
18 the basis of your plea of guilty here this morning.

19 Do you understand that there will be no trial in
20 your case?

21 DEFENDANT ROMAN: Yes.

22 THE COURT: And in your case, do you understand
23 that I could send you to prison for up to life with a
24 minimum sentence of at least 10 years and in addition, I
25 could fine you up to \$10 million.

1 Do you understand this?

2 DEFENDANT ROMAN: Yes.

3 THE COURT: In addition to the imprisonment and
4 fine that you face, I'm also required to impose upon you a
5 supervised-release term. This is a term of supervision by
6 the US Probation Office that starts as soon as you get out
7 of prison, so it is in addition to any imprisonment.

8 And in your case you could actually be supervised
9 by the Probation Office for the remainder of your life.

10 Do you understand this?

11 DEFENDANT ROMAN: Yes.

12 THE COURT: I'm also required to impose upon you a
13 \$100 special assessment.

14 Do you understand this?

15 DEFENDANT ROMAN: Yes.

16 THE COURT: Have you spoke with your attorney
17 about these Sentencing Commission Guidelines, how these
18 Sentencing Guidelines might apply in your case?

19 DEFENDANT ROMAN: Yes.

20 THE COURT: I will not be able to determine
21 exactly which of these sentencing ranges does apply in your
22 case until after the Probation Office has prepared your
23 Presentence Report and you and your lawyer have an
24 opportunity to review and object to that report.

25 Do you understand this?

1 DEFENDANT ROMAN: Yes.

2 THE COURT: And once the Probation Office does
3 determine exactly which of these sentencing ranges does
4 apply in your case, I may nevertheless vary or depart from
5 these Guidelines and I can sentence you up to the maximum
6 punishment that you face in your case and you would not be
7 able to take back your guilty plea.

8 Do you understand this, about the advisory,
9 non-binding nature of these Guidelines?

10 DEFENDANT ROMAN: Yes.

11 THE COURT: Has anybody promised you or guaranteed
12 to you the sentence I'm going to give you in your case?

13 DEFENDANT ROMAN: No.

14 THE COURT: Has anyone attempted in any way to
15 force you to plead guilty here this morning, or threaten you
16 or told you that if you did not plead guilty, some further
17 charges would be brought against you?

18 DEFENDANT ROMAN: No.

19 THE COURT: This offense to which you just pled
20 guilty is a felony offense and if I accept your guilty plea,
21 then you will be adjudged guilty of this felony offense,
22 which will have some additional consequences to you. You'll
23 lose certain rights that you may have had in this country,
24 like the right to vote, or the right to serve on juries.
25 You'll lose the right to ever possess a firearm or

1 ammunition and if you're not a citizen of the United States,
2 then whatever status you might have had to be here, that
3 status will be revoked and you will be deported back to your
4 home country and excluded from returning.

5 Do you understand these additional consequences?

6 DEFENDANT ROMAN: Yes.

7 THE COURT: All right. And is there a Plea
8 Agreement in this case?

9 MS. PROFIT: Yes, Your Honor. There is a Plea
10 Agreement.

11 THE COURT: If you could please describe it?

12 MS. PROFIT: Do you want me to describe it, Your
13 Honor, or read it? He hasn't signed it yet, so.

14 THE COURT: He has not signed it? Why don't you
15 read it?

16 MR. CHERONIS: I do have a signed copy.

17 THE COURT: You do have a signed copy? All right.
18 So why don't you read it into the Record just to make
19 absolutely sure he understands it. It's what, only two
20 paragraphs?

21 MS. PROFIT: United States District Court,
22 Southern District of Texas, McAllen Division, United States
23 of America versus Rodrigo Roman, Criminal No. M-16-876-S2-
24 09. Notice of Plea Agreement: Comes now the United States
25 of American, hereinafter referred to as "the Government," by

1 and through its United States Attorney for the Southern
2 District of Texas and its Assistant United States Attorney
3 assigned to this matter, and would respectfully show the
4 Court that the Government and the Defendant have entered
5 into the following Plea Agreement:

6 The Defendant agrees to plead guilty to the
7 Indictment -- or plead guilty to Count 1 of the Indictment,
8 the Government will recommend that the offense level
9 decrease by two levels, pursuant to US Sentencing Guideline
10 3E1.1(a), if the Defendant clearly demonstrates acceptance
11 of responsibility.

12 If the Defendant is not a citizen of the United
13 States, a guilty plea may result in removal from the United
14 States, denial of citizenship, and denial of admission to
15 the United States in the future.

16 This document states that complete and only Plea
17 Agreement between the United States of America and the
18 Defendant and is binding only on the parties to this
19 agreement and it supersedes all prior understandings, if
20 any, whether written or oral, and cannot be modified other
21 than in writing and signed by all parties or directed in the
22 court. No other promises or inducements have been made or
23 will be made to the Defendant in connection with this case,
24 nor have any promises or threats been made in connection
25 with this plea.

1 And then there's the acknowledgement with the
2 written agreement.

3 Your Honor, in reviewing the Plea Agreement, it
4 says, "Agrees to plead guilty to the Indictment," but
5 actually it's only Count 1 of the Indictment. So we need to
6 make that change and initial it.

7 THE COURT: Right. I'll permit you to do so now.

8 (Pause in the proceedings.)

9 THE COURT: Mr. Roman, you've just heard the
10 Government read the Plea Agreement in your case. Is this
11 your understanding of the agreement you reached with the
12 Government?

13 DEFENDANT ROMAN: Yes.

14 THE COURT: And did you have an opportunity to
15 review and discuss the agreement with your lawyer, and have
16 it explained to you in Spanish before you signed it?

17 DEFENDANT ROMAN: Yes.

18 THE COURT: Your Plea Agreement with the
19 Government is a non-binding Plea Agreement. What that means
20 is that it's not actually binding on the Court and I'm not
21 required to follow your Plea Agreement, and you will have no
22 right to take back your guilty plea if I do not follow the
23 agreement, even if it results in a sentence that is less
24 favorable to you than what was contemplated by your Plea
25 Agreement.

1 Do you understand this about the non-binding
2 nature of your Plea Agreement?

3 DEFENDANT ROMAN: Yes.

4 THE COURT: All right. Knowing now all of these
5 rights that I have explained to you here this morning, would
6 you at this time like to change your mind and take back your
7 guilty plea, which I would allow?

8 DEFENDANT ROMAN: No.

9 THE COURT: All right. Then Mr. Roman, I'm going
10 to ask the lawyer for the Government now to describe for me
11 the facts in your case that the Government was prepared to
12 prove if you had proceeded forward to a trial. It's
13 important that you listen carefully because when she's
14 finished describing all these events about you, I'm going to
15 ask you if what she said was all true or not.

16 All right, Ms. Profit.

17 MS. PROFIT: Beginning sometime in March of 2016,
18 the Defendant, Rodrigo Roman, entered into an agreement with
19 Jose Roman, Moises Ramos, and others, to possess with the
20 intent to distribute over 5 kilograms of cocaine.

21 In furtherance of this agreement on March 5th,
22 2016, Jose Roman picked up a green-colored Ford Explorer
23 from the driveway at 2016 North 33rd Street, home of
24 Rodrigo Roman. Jose Roman drove the Ford Explorer to a
25 detached garage at 1342 Grove Avenue in Berlin, Illinois,

1 where he was met by Moises Ramos.

2 And there they encountered police and
3 approximately 6 kilograms of cocaine were recovered from a
4 duffle bag and approximately \$199,000 was recovered from a
5 trap located in the Ford Explorer.

6 The officers proceeded back to 1216 North 33rd
7 Street. There investigators located a black Chevy Tahoe
8 with an after-market hidden compartment containing
9 approximately 4 kilograms of cocaine. Investigators also
10 located an additional \$40,000 in cash in the residence,
11 along with a scale, food saver packaging machine, money
12 counter and rubber bands that belonged to Rodrigo Roman.

13 Rodrigo Roman knew what he was doing was wrong,
14 but he did it nonetheless.

15 THE COURT: Mr. Roman, you've heard the Government
16 describe these facts in your case. Were the facts stated by
17 the US Attorney all true and correct?

18 DEFENDANT ROMAN: Yes.

19 THE COURT: All right. It's the finding of the
20 Court then in this case that Defendant is competent and
21 capable of entering an informed plea. He understands the
22 nature of the charges against him, the consequence of his
23 guilty plea, the maximum punishment that he faces and his
24 plea of guilty is a knowing and voluntary plea that is
25 supported by facts that contain the elements of the offense.

1 I therefore accept his plea of guilty and he is adjudged
2 guilty to the offense.

3 The next step now in this process for you,
4 Mr. Roman, is now a Probation Officer is going to be
5 assigned to your case. This Probation Officer will be the
6 one who is responsible for preparing your Presentence
7 Report. This is a report that I will rely upon in part to
8 determine your sentence.

9 The Probation Officer should interview you within
10 the next two weeks to begin collecting all the information
11 they need. When they complete their investigation, they'll
12 type up this report and then a copy is given to your lawyer
13 who is required to meet with you, review this report with
14 you, to make sure that everything in there is correct.

15 You will then come back here for sentencing and
16 when you do, you'll have a chance to speak, so if there's
17 anything you want me to consider, you'll have a chance to
18 bring it to my attention at that time.

19 I'm ordering in your case that your Presentence
20 Report be prepared by the 16th of March, any objection
21 within two weeks, and you are scheduled to be back here for
22 sentencing on the 20th of April at 9:00 in the morning.

23 MR. CHERONIS: Your Honor, if I may? I am having
24 surgery early April and I may not be able to make it for
25 that date. I'll contact Ms. Profit and the Court.

1 THE COURT: Probably, I'm going to say it's highly
2 unlikely he'll actually be sentenced on that date.

3 MR. CHERONIS: Okay.

4 THE COURT: I'm going to keep the case together,
5 so as other people plead, we'll then start bunching -- we'll
6 move them to keep them together.

7 MR. CHERONIS: Okay.

8 THE COURT: We'll usually do that just *sua sponte*
9 to try to keep the case together. I don't know, have others
10 -- didn't we get a few guilty pleas at the last final
11 pretrial?

12 MS. PROFIT: Yes, Your Honor, we did.

13 THE COURT: So again, I'm already going to have to
14 start moving some of these around.

15 It does appear that Mr. Roman is safety valve
16 eligible.

17 MR. CHERONIS: Yes.

18 THE COURT: So that's sort of good news for him.
19 I see he's a US citizen, as well, so he doesn't have to
20 worry about deportation.

21 MR. CHERONIS: May I tender a copy of the
22 agreement to the Court? It's the signed agreement.

23 THE COURT: All right. So that'll get filed under
24 seal.

25 All right. Is there anything else I need to

1 address on this Defendant at this time?

2 MS. PROFIT: No, Your Honor.

3 THE COURT: All right. I am here today, so if the
4 other -- his brother decides he wants to be rearraigned,
5 please advise the Court. We can schedule that today.

6 MR. CHERONIS: Thank you for your time, Your
7 Honor.

8 THE COURT: All right. Thank you all very much
9 for being here. You are all excused. The Court will be in
10 recess.

11 THE CLERK: All rise.

12 (Proceedings adjourned at 10:55 a.m.)

13 * * * * *

14 *I certify that the foregoing is a correct
15 transcript to the best of my ability produced from the
16 electronic sound recording of the proceedings in the above-
17 entitled matter.*

18 /S/ MARY D. HENRY

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